

REMARKS

Claims 1-32 are in the application. The Examiner rejected all claims, except Claim 11, as anticipated by Xu. Claim 11 was rejected as not further limiting Claim 1 as an amendment to Claim 1 had removed the embodiment where the photomask is in contact with the core layer. Claim 11 has been deleted. New Claim 33 is added.

REJECTION UNDER 35 USC §102

Claims 1-10 and 12-32 are rejected as anticipated over Xu. It is stated in Xu that the waveguide sample was "placed in a purge box as above" (col. 33 line 30). Referring to the immediately preceding use of the purge box, "The sample was then placed in a purge box and flooded with nitrogen for two minutes at a flow of 7.1 liters per minute." (col 33 lines 16-18).

Applicant respectfully disagrees that the present application is anticipated by Xu and notes that in order to find anticipation, the Examiner must establish that every element and limitation in the instant claims is disclosed in the cited reference. One element in Claim 1, as amended previously, is that the waveguide is formed in a photolithographic process in which the photomask is not in contact with the photoresist. Example G of Xu, which discloses several of the elements and limitations of Claim 1, does NOT disclose the manner in which the waveguide was formed.

All that is stated in Example G of Xu is: (col 33 lines 57-59) "The total loss through single mode waveguides made from different materials was measured..." and data is shown in Table 4 for waveguides formed from, among other materials, that of Example G. Nowhere is it stated how the waveguide was fabricated. Furthermore, nowhere in the specification does Xu expressly state that a particular method for forming the waveguide is much preferred over any other method. Thus, it cannot be known what method was employed in converting the materials of G into the waveguide of Table 4.

Applicant therefore respectfully inquires of Examiner how the Examiner knows that the waveguide of Example G was prepared by a photolithographic process in which the photomask was not in contact with the photoresist since Xu admits of more than one possible method. If the Examiner cannot establish, on a factual basis in Xu, that the waveguide was fabricated by a non-contact method, then applicant believes that the

requirements for a 35 USC §102 rejection have not been met. Applicant respectfully requests that the rejection be withdrawn.

Concerning new Claim 33, that claim is limited only to the embodiments employing a so-called "buffer" layer. Since there is no teaching in Xu of employing a buffer layer, claim 33 should not be subject to a 35 USC §102 rejection.

**REJECTION UNDER 35 USC §103**

As stated in the reply to the first office action, any finding of obviousness must be rendered moot by 35 USC §103 (g) since the instant inventors and Xu were employees of the same entity at the time the instant invention was made.

In view of the above arguments allowance of Claim 1-10 and 12-33 is solicited.

Should anything further be needed to advance prosecution of this application, the Examiner is urged to contact applicants attorney at the telephone number below.

Respectfully submitted,

*Barbara C. Siegel*

Barbara C. Siegel

ATTORNEY FOR APPLICANTS

REGISTRATION NO. 30,684

TELEPHONE: 302-992-4931

FAX: (302) 992-5374

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